

ESTTA Tracking number: **ESTTA149449**Filing date: **07/05/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Kabushiki Kaisha Zucca Design Office (also trading as Zucca Design Office, Inc.)
Granted to Date of previous extension	07/04/2007
Address	3-14-12 JingumaeShibuya-ku Tokyo, JAPAN

Attorney information	Keith E. Danish Kirkpatrick & Lockhart Preston Gates Ellis LLP 599 Lexington Avenue New York, NY 10022-6030 UNITED STATES nytrademarks@klgates.com, keith.danish@klgates.com Phone:(212) 536-3900
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**Applicant Information**

Application No	78938444	Publication date	03/06/2007
Opposition Filing Date	07/05/2007	Opposition Period Ends	07/04/2007
Applicant	Zucca LLC 15 East 69th Street New York, NY 10021 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Neckwear; neckerchiefs; neckties; scarves; pocket squares; shawls; bandanas; tuxedos; cummerbunds; bow ties; polo shirts; dress shirts; sweaters; swim trunks; swimsuits; bikinis; bathing suits; shorts; socks; dress pants; skirts; dresses; nightwear; underwear; boxers; lingerie; belts; hats; jackets; gloves; mittens; dress shoes; sneakers; raincoats; coats; overcoats; trousers; smocks; and topcoats
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Application No.	78630066	Application Date	05/13/2005
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	ZUCCA
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 024. First use:</p> <p>Cotton fabrics, hemp yarn fabrics, silk fabrics, wool yarn fabrics, chemical fiber fabrics, inorganic fiber fabrics, mixed fiber fabrics, mixed yarn fabrics, narrow woven fabrics, paper yarn fabrics, covered rubber yarn fabrics; towels, Japanese coffin towels, handkerchiefs, Japanese general wrapping cloth; linen futon and quilts cases, pillowcases, bed sheets, blankets table napkins of textile, dish cloths; seat covers of textile, wall hangings of textile, curtains, tablecloths not of paper, draperies</p> <p>Class 025. First use:</p> <p>Non-Japanese style outerwear, children's wear and work clothing, namely, evening dresses, school uniforms, jackets, jogging pants, sweat pants, suits, skirts, ski jackets, ski pants, trousers, smocks, coats, overcoats, topcoats, mantles, raincoats; formal wear, namely, tuxedos; sweaters, shirts, nightwear, underwear, bathing suits, swimming caps; aprons, collar protectors, socks and stockings, puttees and gaiters, fur stoles, shawls, scarves, Japanese style socks (tabi), gloves and mittens, babies' style socks (tabi), gloves and mittens, babies' diapers of textile, neckties, neckerchiefs, bandanas, warmth-keeping supports, namely, leg warmers, mufflers, ear muffs; hoods, sedge hats, nightcap, clothing helmets and headgear for clothing, namely, hats and caps; garters, sock suspenders, suspenders, waistbands, belts for clothing; shoes, boots, slippers, sneakers; masquerade costumes; clothes for sports, namely, anoraks, karate suits, sports over uniforms, kendo outfits, judo suits, ski suits for competition, clothing headbands, wind jackets, uniforms and stockings, wristbands; boots for sports, namely, golf shoes, soccer shoes, ski boots, gymnastic shoes, tennis shoes, climbing boots, basketball sneakers, volleyball shoes, handball shoes, bowling shoes, boxing shoes, hockey shoes, baseball shoes, rugby shoes, footwear for track and field athletics</p>

U.S. Application No.	78978242	Application Date	05/13/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ZUCCA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use:</p> <p>Clothing for domestic pets; folding briefcases, shoulder bags, Gladstone bags, briefcases, suitcases, carry-on bags, trunks, handbags, Boston bags, schoolchildren's backpacks; backpacks, namely, rucksacks; charm bags, credit card cases, textile and leather shopping bags, purses, key cases, wallet, business card cases; umbrellas and their parts</p> <p>Class 020. First use:</p> <p>Non-metal commuter's ticket holders</p>		

U.S. Application No.	78630057	Application Date	05/13/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ZUCCA TRAVAIL		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 024. First use: Cotton fabrics, hemp yam fabrics, silk fabrics, wool yam fabrics, chemical fiber fabrics, inorganic fiber fabrics, mixed fiber fabrics, mixed yam fabrics, narrow woven fabrics paper yam fabrics, covered rubber yam fabrics; towels, Japanese cotton towels, handkerchiefs, Japanese general wrapping cloth; linen futon and quilts cases, pillow cases, bed sheets, blankets; table napkins of textile, dish cloths; seat covers of textile, wall hangings of textile, curtains, table cloths not of paper, draperies</p> <p>Class 025. First use: Non-Japanese style outerwear, children's wear and work clothing, namely, evening dresses, school uniforms, jackets, jogging pants, sweat pants, suits, skirts, ski jackets, ski pants, trousers, socks, coats, overcoats, topcoats, mantles, raincoats; formal wear, namely, tuxedos; sweaters, shirts, nightwear, underwear, bathing suits, swimming caps; aprons, collar protectors, socks and stockings, puttees and gaiters, fur stoles, shawls, scarves, Japanese style socks (tabi), gloves and mittens, babies' style socks (tabi), gloves and mittens, babies' diapers of textile, neckties, neckerchiefs, bandanas, warmth-keeping supports, namely, leg warmers, mufflers, ear muffs; hoods, sedge hats, nightcap, clothing helmets and headgear for clothing, namely, hats and caps; garters, sock suspenders, suspenders, waistbands, belts for clothing; shoes, boots, slippers, sneakers; masquerade costumes; clothes for sports, namely, anoraks, karate suits, sports over uniforms, kendo outfits, judo suits, ski suits for competition, clothing headbands, wind jackets, uniforms and stockings, wristbands; boots for sports, namely, golf shoes, soccer shoes, ski boots, gymnastic shoes, tennis shoes, climbing boots, basket ball sneakers, volleyball shoes, handball shoes, bowling shoes, boxing shoes, hockey shoes, baseball shoes, rugby shoes, footwear for track and field athletics</p>

U.S. Application No.	78978241	Application Date	05/13/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ZUCCA TRAVAIL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: (based on Section 1b) Clothing for domestic pets; folding briefcases, shoulder bags, Gladstone bags, briefcases, suitcases, carry-on bags, trunks, handbags, Boston bags, school children's backpacks; backpacks, namely, rucksacks; charm bags, credit card cases, textile and leather shopping bags, purses, key cases, wallet, business card cases; umbrellas and their parts</p> <p>Class 020. First use: (based on Section 1b) Non-metal commuter's ticket holders</p>		

U.S. Application No.	78630050	Application Date	05/13/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CABANE DE ZUCCA		
Design Mark			

Description of Mark	NONE
Goods/Services	<p>Class 014. First use:</p> <p>Key rings of precious metal; cuff links; earrings, insignias of precious metal, belt buckles of precious metal, badges of precious metal, bonnet pins of precious metal, tie clips, tie pins, necklaces, bracelets, pendants, brooches, jewelry, medals, rings, medallions; watches and clocks; tobacco pouches of precious metal, cigarette cases of precious metal, cigarette holders of precious metal, ashtrays of precious metal</p> <p>Class 018. First use:</p> <p>Clothing for domestic pets; folding briefcases, shoulder bags, Gladstone bags, briefcases, suitcases, carry-on bags, trunks, handbags, Boston bags, schoolchildren's backpacks; backpacks, namely, rucksacks; charm bags, credit card cases, textile and leather shopping bags, purses, key cases, wallet, business card cases; umbrellas and their parts</p> <p>Class 024. First use:</p> <p>Cotton fabrics, hemp yarn fabrics, silk fabrics, wool yarn fabrics, chemical fiber fabrics, inorganic fiber fabrics, mixed fiber fabrics, mixed yarn fabrics, narrow woven fabrics, paper yarn fabrics, covered rubber yarn fabrics; towels, Japanese cotton towels, handkerchiefs, Japanese general wrapping cloth; linen futon and quilts cases, pillowcases, bed sheets, blankets; table napkins of textile, dish cloths; seat covers of textile, wall hangings of textile, curtains, table cloths not of paper, draperies</p> <p>Class 025. First use:</p> <p>Non-Japanese style outerwear, children's wear and work clothing, namely, evening dresses, school uniforms, jackets, jogging pants, sweat pants, suits, skirts, ski jackets, ski pants, trousers, smocks, coats, overcoats, topcoats, mantles, raincoats; formal wear, namely, tuxedos; sweaters, shirts, nightwear, underwear, bathing suits, swimming caps; aprons, collar protectors, socks and stockings, puttees and gaiters, fur stoles, shawls, scarves, Japanese style socks (tabi), gloves and mittens, babies' style socks (tabi), gloves and mittens, babies' diapers of textile, neckties, neckerchiefs, bandanas, warmth-keeping supports, namely, leg warmers, mufflers, ear muffs; hoods, sedge hats, nightcap, clothing helmets and headgear for clothing, namely, hats and caps; garters, sock suspenders, suspenders, waistbands, belts for clothing; shoes, boots, slippers, sneakers; masquerade costumes; clothes for sports, namely, anoraks, karate suits, sports overuniforms, kendo outfits, judo suits, ski suits for competition, clothing headbands, wind jackets, uniforms and stockings, wristbands; boots for sports, namely, golfshoes, soccer shoes, ski boots, gymnastic shoes, tennis shoes, climbing boots, basketball sneakers, volleyball shoes, handball shoes, bowling shoes, boxing shoes, hockey shoes, baseball shoes, rugby shoes, footwear for track and field athletics</p>

Attachments	<p>78630066#TMSN.jpeg ( 1 page )( bytes )</p> <p>78978242#TMSN.jpeg ( 1 page )( bytes )</p> <p>78630057#TMSN.jpeg ( 1 page )( bytes )</p> <p>78978241#TMSN.jpeg ( 1 page )( bytes )</p> <p>78630050#TMSN.jpeg ( 1 page )( bytes )</p> <p>ZUCCA.pdf ( 4 pages )(123257 bytes )</p>
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Signature	/keith e. danish/
Name	Keith E. Danish
Date	07/05/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the Matter of Application Serial No. 78/938,444  
Published in the Official Gazette of March 6, 2007  
Atty. Ref.: 0820169.0122*

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Kabushiki Kaisha Design Office (also :  
trading as Zucca Design Office, Inc.), :

Opposer, :

-against- :

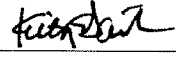
Zucca LLC, :

Applicant. :  
----- :

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposition No.:

I hereby certify that this paper or fee is being transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below:

  
\_\_\_\_\_  
Signature

KEITH E. DANISH

\_\_\_\_\_  
Printed Name

July 5, 2007

\_\_\_\_\_  
Date

**NOTICE OF OPPOSITION**

Kabushiki Kaisha Zucca Design Office (also trading as Zucca Design Office, Inc.), a Japanese corporation, with a place of business located at 3-14-12 Jingumae, Shibuya-ku, Tokyo, Japan [hereinafter "Opposer"], believes that it will be damaged by registration of the proposed trademark "byZUCCA", as shown in Application Serial No. 78/938,444, filed July 26, 2006, 2003, and hereby opposes same.

As grounds for opposition, it is alleged that:

1. Zucca LLC [hereinafter “Applicant”] has filed an application in the United States Patent and Trademark Office, Serial No. 78/938,444, filed July 26, 2006, for registration of the alleged trademark “**byZUCCA**” on the Principal Register in respect of “neckwear; neckerchiefs; neckties; scarves; pocket squares; shawls; bandanas; tuxedos; cummerbunds; bow ties; polo shirts; dress shirts; sweaters; swim trunks; swimsuits; bikinis; bathing suits; shorts; socks; dress pants; skirts; dresses; nightwear; underwear; boxers; lingerie; belts; hats; jackets; gloves; mittens; dress shoes; sneakers; raincoats; coats; overcoats; trousers; smocks; and topcoats” (Int’l. Class 25), with an allegation of an intention to use said mark in commerce.

2. Upon information and belief, Applicant did not use the alleged trademark “**byZUCCA**” anywhere in the United States of America, or in commerce, prior to the filing date of its application.

3. Opposer is a leading producer and distributor of high-quality clothing products.

4. Opposer has applied to register the below-listed trademarks on the Principal Register of the United States Patent and Trademark Office:

<b>ZUCCA (stylized)</b>	Ser. No. 78/630,066	filed May 13, 2005	Cls. 24 & 25
<b>ZUCCA (stylized)</b>	Ser. No. 78/978,242	filed May 13, 2005	Cls. 18 & 20
<b>ZUCCA TRAVAIL (stylized)</b>	Ser. No. 78/630,057	filed May 13, 2005	Cls. 24 & 25
<b>ZUCCA TRAVAIL (stylized)</b>	Ser. No. 78/978,241	filed May 13, 2005	Cls. 18 & 20
<b>CABANE DE ZUCCA (stylized)</b>	Ser. No. 78/630,050	filed May 13, 2005	Cls. 14, 18, 24 & 25

5. There is no issue of priority since the filing date of Applicant's "**byZUCCA**" trademark application is subsequent to the filing dates of Opposer's aforementioned trademark applications.

6. Opposer's aforementioned trademarks possess a high degree of inherent distinctiveness and represent extremely valuable assets and symbols of the goodwill of its business by identifying goods which have their source of origin exclusively with Opposer, and by distinguishing such goods from those of others.

7. The prospective buyers of Applicant's "**byZUCCA**" clothing products are likely to assume that the goods are made and/or sold "by Zucca", i.e., by the Opposer.

8. Applicant's alleged trademark "**byZUCCA**" is confusingly similar to Opposer's aforementioned trademarks in sound, appearance and/or commercial impression.

9. The Opposer's aforementioned trademark applications cover many articles of clothing in Class 25, as well as related goods in Classes 14, 18, 20 and 24.

10. The respective goods of the Opposer and the Applicant are identical, closely related and/or complementary, and are likely to travel through the same channels of trade for sale to or use by the same general class of purchasers.

11. Applicant's alleged trademark is calculated or likely to cause pre-purchase and/or post-purchase confusion, mistake or deception of purchasers or members of the public as to the respective marks of the Opposer and the Applicant, and also as to the source of origin or sponsorship of the goods for which such marks are used, or are intended to be used.

12. Applicant's alleged trademark is calculated or likely to cause irreparable loss, injury and/or damage to Opposer's business and to the goodwill thereto appertaining as symbolized and recognized by its aforementioned trademarks.

13. Applicant's alleged trademark is a colorable imitation or misappropriation of Opposer's pleaded trademarks, and will enable Applicant to reap where it has not sown by trading on the goodwill of Opposer's business as symbolized and recognized by its aforementioned trademarks.

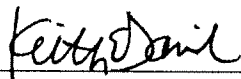
IN CONCLUSION, Opposer, by its undersigned attorneys, prays that its opposition to Application Serial No. 78/938,444 be sustained and that the Trademark Trial and Appeal Board grant any and all further relief to Opposer that the Board finds to be necessary and just in the circumstances.

The Commissioner is authorized to charge the undersigned attorneys' Deposit Account No. 08-0570, for the \$300 opposition fee and any other fees required to be paid in connection with this proceeding.

Respectfully submitted,

Kabushiki Kaisha Zucca Design Office  
(also trading as Zucca Design Office, Inc.)

Dated: July 5, 2007

By   
Mark I. Peroff  
Keith E. Danish

**KIRKPATRICK & LOCKHART PRESTON  
GATES ELLIS LLP**

599 Lexington Avenue  
New York, New York 10022-6030  
Tel. No.: (212) 536-4063  
E-Mail: *keith.danish@klgates.com*

*Attorneys for Opposer*